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SPEECH

OF

HON. GEORGE F. MILLER, OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES, APRIL 21, 1866.

The House, as in Committee of the Whole on the state of the Union, having under consideration the President's annual message—

Mr. MILLER said:

Mr. SPEAKER: Much has been said in regard to reconstruction, and as it is one of the most momentous questions that has ever devolved upon Congress since the formation of our Government, it is well that it has attracted the serious consideration of both Houses of Congress.

The wicked rebellion having been crushed, the next great question for us to legislate is, to try to prevent a similar outbreak; and to this Congress the nation looks for a guarantee of permanent security. The Union, in legal contemplation, is perpetual. It is much older than the Constitution formed by the Articles of Association of 1774, matured and continued by the Declaration of Independence of July 4, 1776. It was further matured, and the faith of the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation of 1778, and finally in 1787 the declared objects for ordaining and establishing the Constitution were "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, and secure the blessings of liberty to ourselves and our posterity." Thus the original thirteen States were by solemn compact cemented together. And the third section of the fourth article of the Constitution provides that new States may be admitted by Congress into this Union.

Has any State which formed a part of this Union a right, under the Constitution, to secede? That right is nowhere admitted in that sacred instrument, but the very contrary is inculcated.

Chief Justice Marshall, in the case of Cohen *vs.* Virginia, 6 Wheaton, 390, says:

"The people made the Constitution and the people can unmake it; it is the creature of their will and lives only by their will. But the supreme invisible power to make or unmake resides only in the whole body of the people; not in any subdivision of them. The attempt of any of the parts to exercise it is usurpation and ought to be repelled by those to whom the people have delegated their power of repelling it."

Mr. Madison in his letter to Mr. Trist, in 1822, says:

"I partake of wonder that the man you name should view secession in the light mentioned. The essential difference between a free Government and a Government not free is that the former is founded on compact, the parties to which are mutually and equally bound by it; neither of them, therefore, have a greater right to break off from the bargain than the others have to hold them to it, and certainly there is nothing in the Virginia resolutions of 1798 adverse to this principle, which is that of common sense and common justice. The fallacy which draws a different conclusion lies in confounding a single party with the parties to a constitutional compact of the United States; the latter having made the compact may do what they will with it, the former, as only one of the parties, owes fidelity to it till released by consent or absolved by an intolerable abuse of the power created. It is high time that the claim to secede at will should be put down by public opinion."

Also Mr. Madison, in his letter to Mr. Everett in 1830, said:

"It [the Constitution] was formed by the governments of the component States, as the Federal Government for which it was substituted was formed; nor was it formed by a majority of the people of the United States as a single community, in the manner of a consolidated Government. It was formed by the States—that is by the people in each of the States acting in their highest capacity, and formed consequently by the same authority which formed the State constitutions.

"Being thus derived from the same source as the constitution of the States, it has within each State the same authority as the constitution of the State, and as much a constitution in the strict sense of the term, within its prescribed sphere, as the constitution of the States are within their respective spheres, but with this obvious and essential difference, that being a compact among States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or amended at the will of the State individually, as the constitution of a State may be at its individual will."

General Jackson, in his letter to Colonel Hamilton, of November 2, 1812, and the one to Mr. Crawford, of May 1, 1833, takes strong grounds against the right of secession. In the latter he uses this patriotic language:

"Take care of your nullifiers; you have them among you; let them meet with the indignant frowns of every man who loves his country. Haman's gallows ought to be the fate of such ambitious men."

Mr. Lincoln very properly said in his inaugural address of March 4, 1861:

"Physically speaking, we cannot separate; we can-

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not remove our respective sections from each other, nor build an impassable wall between them. A husband and wife may be divorced and go out of the presence and beyond each other, but the different parts of our country cannot do this. They cannot but remain face to face."

And in his first message to Congress on the 4th of July, 1861, he stated that—

"The Constitution provides, and all the States have accepted the provisions, that the United States shall guaranty to every State a republican form of government, but if a State may lawfully go out of the Union, having done so, it may also discard the republican form of government; so that to prevent its going out is an indispensable means to the end of maintaining the guarantee mentioned."

And finally, in his message of 2d of March, 1862, he repeated that—

"The Union must be preserved, and hence all indispensable means must be employed."

I need not, however, consume time in citing authorities against the right of secession, for even Mr. Buchanan, under whose administration the rebellion was matured, in his last message, delivered on Tuesday the 4th day of December, 1860, denied that "secession" could be justified as a constitutional remedy, and asserted that the principle is wholly inconsistent with the history as well as the character of the Constitution, but said he could not find anything in the Constitution to coerce a State into submission which is attempting to withdraw from the Confederacy, (notwithstanding the Constitution which he had sworn to support required him to take care that the laws be faithfully executed,) and for this dereliction of duty his country, on which his administration inflicted so much misery, will hold him responsible.

But again, the seed of secession, for many years sown broadcast in the then slave States and especially in South Carolina (which was the nest of treason) has been eradicated by the blood of more than three hundred thousand as brave men as the world ever saw who fell battling in defense of the flag of this great Republic; and another great moral victory was achieved by this bloody conflict, which was the overthrow of a system conceded by every true patriot to be incompatible with a republican form of government, and that is slavery.

There are eleven States that the leaders of the rebellion claim to have seceded, and the question has been raised in the discussion as to the present *status* of these States. The honorable chairman of the committee on reconstruction [Mr. STEVENS] in an able speech delivered in the House on the 18th day of December last, takes the ground that these rebel States severed their original compact and broke all ties that bound them to the Union, and are to be treated as conquered provinces, or, to use his language—

"Unless the law of nations is a dead letter, war between two acknowledged belligerents severed the original compact and broke all ties that bound them together; the future condition of the conquered Power depends on the will of the conqueror. They must come in as new States, or remain as conquered provinces."

And he again remarks in the same speech—

"I cannot doubt that the late confederate States are out of the Union to all intents and purposes for which the conqueror may choose to consider them"—

and cited several authorities which he claims to sustain his position, among which are Vattel, Phillimore, and 2 Black's United States Supreme Court Reports, and in a great measure assumed the same position in his speech of the 10th of March.

Though I have great respect for the learning and statesmanship of my distinguished colleague, I cannot subscribe to all the doctrines enunciated by him. It may, however, be proper to state here that the honorable gentleman did not pretend to express the views of the Republican party, for in the speech first delivered he, with his usual candor and fairness, says:

"I trust the Republican party will not be alarmed at what I am saying; I do not profess to speak their sentiments, nor must they be held responsible for them. I speak for myself and take the responsibility for them."

Nor can I agree in all the views of my learned colleague, [Mr. WILLIAMS,] although his speech, for its learning and research, reflects great credit upon its distinguished author, nor can I to all contained in the able speech of that distinguished gentleman from Ohio, [Mr. SHELLABARGER,] in which is displayed much legal learning, and was delivered with great force. The authorities, however, cited by him do not, in my opinion, sustain his position as applicable to the so-called rebel States. The two latter gentlemen do not profess to go the same length as the former. I am certain that neither of these distinguished gentlemen will concede the right of secession under the Constitution to any of the States of this Union. Then, if no such right exists to peaceably withdraw, can the citizens of any State or number of States by force, short of a successful revolution, take such State or States out of this Confederacy?

I hold that no rebellious act can force a State out of the Union; that notwithstanding the rebellion, it still remains a part and parcel of it, as much as an arm is an integral part of the human body; though, owing to the rebellion, it may for a time be somewhat paralyzed. I would accord to the rebels no such honor as having been successful in taking the eleven rebel States, or any one of them, out of the Union, and now to be treated as conquered provinces. But suppose we should admit these States had forced themselves out of the Union, and no constitutional prohibition adopted, how would we stand in regard to the rebel debt? In Wheaton's Elementary International Law, page 63, it is laid down that—

"As to public debts, whether due to or from the revolutionized State, a mere change in the form of government or in person of the ruler does not affect the obligation.

"The essential form of the State—that which constitutes it an independent community—remains the same, its accidental form only changed. The debts being contracted in the name of the State by its authorized agents for its public use, the nation con-

tinues liable for them, notwithstanding the change in its international condition. The new Government succeeds to the fiscal rights, and is bound to fulfill the fiscal obligations of the former Government. It becomes entitled to the public domain and other property of the State, and is bound to pay its debts previously contracted."

I cite this authority merely to show the increased difficulties we might have to encounter by adopting the doctrine of the rebel States having been out of the Union.

Considerable has been said as to what is required to constitute a State and attempt to show that the rebel States, as they are called, cannot be "States." In Wheaton's International Law, pages 57 and 58, it is said:

"A State, as to the individual members of which it is composed, is a fluctuating body, but in respect to society it is one of the same body of which the existence is perpetually kept up by a constant succession of new members. This existence continues until it is interrupted by some change affecting the being of the State. If this change be an internal revolution, merely altering the municipal constitution and form of government, the State remains the same; it neither loses any of its rights nor is it discharged from any of its obligations.

"The habitual obedience of the members of any political society to a superior authority must have once existed in order to constitute a sovereign State. But the temporary suspension of that obedience and of that authority in consequence of civil war does not necessarily extinguish the being of the State, although it may affect for a time its ordinary relation with other States."

And in Vattel, 423, one of the cases cited and relied on by my colleague, [Mr. STEVENS,] it is said:

"A civil war breaks the bands of society and government, or at least suspends their force and effect."

There is no doubt that the civil operations of the Government were for awhile suspended as regards the rebel States, but that would not prevent the Government from exercising that right as soon as the rebellion was crushed, nor would it be any acknowledgment that these States were separated from the Union. Much has been said and authorities cited in regard to ancient Governments which have but little application to a Government like ours. We may look in vain into ancient history to find one constituted like the United States, for even in the most enlightened days of the Grecian republic piracy was regarded as an honorable employment.

The law of nations, as understood by the European world and by us, is the offspring of modern times. It is truly said in Phillimore on International Law, page 138, (33 Law Library, 133:)

"That the United States of North America furnishes us the greatest example which the world has yet seen of a Federal Government; that its Constitution differs materially from the Germanic Confederation; the latter is a league of sovereign States for the common defense against external and internal violence, the former is a supreme Federal Government; it is in fact a composite State, the constitution of which affects not only members of the Union but all its citizens both in their individual and corporate capacities."

And the same doctrine is recognized in Wheaton's International Law, page 92. But it has been said that during the four years of bloody conflict the so-called rebel States were acknowledged by the United States as belligerents, and to sustain this theory 2d Black's United States Supreme Court Reports, which is known as the prize cases, has been cited and relied on. It cannot be denied that the rebellion against the Government of the United States assumed a gigantic form; that the rebel government had enforced obedience to its authority over a large region of country, and over many millions of people; that it had by force excluded temporarily the operation of the laws of the United States; and that our Government has in many ways recognized the contest as a civil war, and from motives of policy and humanity could not act strictly upon legal principles, but *ex necessitate rei* adopted so much of the civil warfare as would prevent indiscriminate slaughter and the infliction of unnecessary pain and hardship.

This was done without in any manner recognizing the rebel leaders or their organization, but constantly denying them to be a Government *de facto* or *de jure*. On examination of all the proclamations of the President, beginning with that of the 15th of April, 1861, and all the principal laws of Congress, I have not been able to find a single executive or legislative act which conceded a governmental *status* to the so-called rebel confederacy. The whole ground of legislation has been aimed to suppress insurrection, punish treason, and confiscate property of rebels. The most important bill on that subject that passed Congress is the one approved July 17, 1862, entitled:

"A bill to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

The so-called southern confederacy certainly was not a Government *de jure;* all its actions were a gross violation of rights. It was nowhere a recognized Government. It was never admitted into the family of nations. Every rebellion or insurrection is in reality a war, and it becomes more evidently such when it brings hundreds of thousands of men into the field; still, it is only a rebellion, and the citizens of the rebellious portion are only rebellious citizens, over whom the Government possesses not only all its legal rights, but all those powers which a state of war confers upon it.

As regards the United States, all the ordinances of secession were null and void, and the so-called southern confederacy was an entire and complete nullity, and the rebellious people may very properly have been treated as rebels and enemies. They may be tried as traitors and punished. The Supreme Court, in the prize cases, decided no more than this, that being engaged in a war with rebels the President had a right, *jure belli*, to blockade ports in possession of States in rebellion, which neutrals were bound to regard. There is no intimation of an abrogated Constitution or an outside *status*. Had this question been before the court no doubt Justice Grier would have adhered to his

own opinion in case of the pirates, in which that eminent judge said:

"Every Government is bound by the law of self-preservation to suppress insurrection, and the fact that the number of the insurgents may be so great as to carry on a civil war against their legitimate sovereign will not entitle them to be considered a State. The fact that a civil war exists for the purpose of suppressing a rebellion is conclusive that the Government of the United States refuses to acknowledge their right to be considered such. Consequently this court, sitting here to execute the laws of the United States, can view those in rebellion in no other light than traitors to their country, and those who assume by their authority a right to plunder the property of our citizens on the high seas, as pirates and robbers."

My colleague, [Mr. STEVENS,] in his speech, recites a few words of what Justice Grier said in the prize cases, when speaking in relation to insurrections against Governments, as follows:

"When a party in rebellion occupy or hold in hostile manner a certain portion of country, have declared their independence, have cast off their allegiance, have organized armies, have commenced hostilities against their former sovereign, the world acknowledges them as belligerents, and the contest is a war."

But in the same paragraph that judge continues:

"They claim to be in arms to establish their liberty and independence in order to become a sovereign State, while the sovereign treats them as insurgents and rebels who owe allegiance and who should be punished with death."

This does not conflict with the opinion given by that distinguished jurist in the trial of the pirates, but is in confirmation of the fact that the United States did not acknowledge the rebel confederacy as a belligerent.

It cannot be disputed but that during the rebellion the civil laws could not be enforced over those States, and consequently the functions thereof were in a great measure suspended. But this fact, as the authorities heretofore cited show, did not place those States out of the Union, or destroy their *status* as States, and turn them into Territories.

During all that trying period there was still prevailing (though in a great measure suppressed) a Union element in those States which did much in aiding to crush out the rebellion. If there had been found in Sodom and Gomorrah ten righteous men, we are told that those cities of the plain would have been saved from destruction, and surely more than that number of true loyal men could have been found in each of the rebel States, even South Carolina not excepted. And are we more uncharitable than He who holds in his hands the destiny of worlds?

And again, had not the loyal citizens of those States a right to claim that they were citizens of the United States and entitled to protection under the Constitution, as did the inhabitants of Rome by claiming that they were Roman citizens?

In Vattel's Law of Nations, page 6, it is laid down—

"If a nation is obliged to preserve itself, it is no less obliged carefully to preserve all its members. The nation owes this to itself, since the loss even of one of its members weakens it and is injurious to its preservation. It owes this also to the members in particular in consequence of the very act of association; for those who compose a nation are united for their defense and common advantage, and none can justly be deprived of this union and of the advantages he expects to derive from it while he on his side fulfills the conditions."

And the same author on the same page further says:

"The body of a nation cannot, then, abandon a province, a town, or even a single individual who is a part of it, unless compelled to it by necessity, or indispensably obliged to it by the strongest reasons founded on the public safety."

It cannot be denied that East Tennessee had during the rebellion a large number of loyal citizens. Mr. Lincoln, in his message to Congress on the 3d day of December, 1861, stated:

"I deem it important that the large region of East Tennessee and western North Carolina be connected with Kentucky and other faithful parts of the Union by railroad."

On the 4th of May, 1864, the House passed a bill authorizing the President to appoint in each State in rebellion a provisional governor, with the pay and emoluments of a brigadier general, to be charged with the civil administration until a State government therein shall be recognized, and prior to that time, to wit, on the 20th of January, 1864, President Lincoln ordered an election to be held in Arkansas for Governor, &c.; thus showing that neither the action of Congress nor President Lincoln had any tendency to treat the rebel States as out of the Union or annihilated as States, but on the contrary shows the very opposite.

President Johnson, in his annual message of the 4th of December last, says:

"The perpetuity of the Constitution brings with it perpetuity of the States; thus mutual relations make us what we are; and in our political system their connection is indissoluble. The whole cannot exist without the parts, nor the parts without the whole. So long as the Constitution of the United States endures the States will endure; the destruction of one is the destruction of the other; the preservation of the one is the preservation of the other."

But it is said by my colleague [Mr. STEVENS] that "on the ground of estoppel the United States have a clear right to elect to adjudge them out of the Union;" that "they are estopped both by matter of record and matter *in pais*."

And my able colleague, [Mr. BROOMALL,] in his speech of the 26th of January, says, in speaking of the rebel States:

"Having set up an independent government and waged war as a nation, they are estopped from pleading the right of citizenship to defeat the right of conquest."

If the latter gentleman's doctrine is tenable, then those residing in what are denominated the rebel States are no longer citizens of the United States, and consequently not amenable to her laws, and in that event all laws of Congress passed to punish rebels would be nugatory.

But how do the records stand in regard to estoppel? It is true that the so-called southern confederacy adopted a constitution and passed laws, claiming to be independent of the United States, and at the same time the United States

Congress passed stringent laws which denied that those States were separated from the United States, and inflicted upon them severe penalties for their treason. So as regards matter of record the United States would be estopped from treating these States as out of the Union, as well as the rebel States would be by having asserted they were out. Then as to matter *in pais*. The United States asserted that those rebel States had not dissolved their connection with the Union, while the rebels on the other hand asserted they had. So as to matter *in pais*, they would be equally estopped.

Finally, the contest was by wager of battle decided against the rebels. In 7 Casey's Pennsylvania Reports, 334, Hill *et al. vs.* Eply, it is laid down:

"If no one be misled to his hurt he will not be estopped."

Also, in 12 Casey, 522, Brubaker *vs.* Oakes, it is ruled that—

"It is essential to an estoppel by matter *in pais*, that he who sets it up is bound to show that he has been misled to his hurt."

And in 3 Hill, 215, Dezell *vs.* Odel, it is laid down that to make an estoppel effectual it must show that the party made an admission clearly inconsistent with the evidence proposed to be given, and that the other party has acted upon that admission. The United States were not misled, for the actions of the rebels were well known, and both parties acted with full knowledge, and as already indicated, were on an equality as to matter of record. So that upon no legal principle are the rules of estoppel applicable as contended by my two colleagues.

Mr. Speaker, it has been said that if the States lately in rebellion were only put in abeyance during the war, then at its termination they were restored to all the rights they possessed prior to the rebellion, and the President had no right to direct provisional governors to call a convention to amend or form a constitution different from the mode designated in the constitution in force at the breaking out of the war. And the honorable gentleman from Ohio [Mr. SHELLABARGER] refers to the actions of the President in regard to North Carolina, and recites the clause in the old constitution pointing out a mode for altering or amending the same.

Now, owing to the rebellion, great changes had taken place. As a war necessity, slaves had by proclamation been declared to be freed, and the fourth section of the fourth article of the Constitution of the United States requires that the United States shall guaranty to every State in the Union a republican form of government, and in order to carry out that injunction it was indispensable that a change of the constitution should be made, and the Government had a right to demand it in order that the civil laws, which had to give way to the military, could be revived. And as to the mode of altering the constitution, though the old one points out a method by which amendments or alterations may be made, still that does not prevent the calling of a convention to adopt a new constitution or change the former, subject to the ratification of the legal voters. That is a right which the sovereign people of each State never parted with, and hence may as often as they choose, by convention, change their constitution so as not to be incompatible with that of the United States. The Legislature, without a convention, can make alterations only in the way prescribed by the constitution; but as I have already said, that is no bar to a change made through a convention, subject to the ratification of the voters; and for this procedure we have a case directly in point in regard to the State of Missouri. Article twelve of the constitution of the 10th of July, 1820—under which it became a State—provides that—

"The General Assemby may at any time prepare such amendments to this constitution as two thirds of each House shall deem expedient, which shall be published in all the newspapers printed in the State three several times, at least twelve months before the next general election, and if, at the first session of the General Assembly after such general election, two thirds of each House shall by yeas and nays ratify such proposed amendments, they shall be valid to all intents and purposes as part of this constitution: *Provided*, That such proposed amendment shall be read on three several days in each House as well when the same are proposed as when they are finally ratified."

Yet, notwithstanding this prescribed mode of amendment, the Legislature of that State passed, in the year 1865, a law calling a convention which continued in session a few weeks and adopted a constitution which was submitted to the people for ratification, (the disloyal portion of the community being prohibited from voting,) and under that constitution the present members of Congress from that State were elected and now have seats in this House. Tennessee also adopted a constitution in a similar manner. But it has been said that the citizens did not all vote on these questions, that some of them were not allowed that right.

If they committed such acts as to deprive themselves of the right of suffrage it was a fault of their own, or if those who had a right neglected to vote it would not invalidate a constitution which had a majority of those who did vote. All that is required when a matter is submitted to the people for their ratification is a majority of the votes polled. The Constitution of the United States provides that in order to make an amendment thereto valid it must pass Congress by a vote of two thirds of both Houses, and be ratified by the Legislatures of three fourths of the several States, or by convention in three fourths thereof, so that in such an important amendment as that abolishing the system of slavery we cannot afford to theorize as to States being out of the Union or losing their *status* as States, for there is no telling what the United States Supreme Court, as now or shall hereafter be constituted, may decide in regard to the States lately in rebellion, and

if there should not be a ratification by three fourths of the entire number of States, (including those lately in rebellion,) and it should be determined that in consequence thereof the amendment abolishing slavery was invalid, then all the lives and treasure sacrificed to eradicate from this Republic that accursed system which brought upon the nation so much misery would be of no avail. But the Secretary of State, that far-seeing statesman, (Mr. Seward.) who through the four years of terrible conflict managed the affairs of state so ably and kept us out of foreign wars, provided for the contingency so as to avoid all cavil. That gentleman, in his published certificate in form of proclamation of the 18th of December, 1865, recites the amendments, to wit:

"SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

And then proceeds as follows:

"And whereas it appears from official documents on file in this Department that the amendment to the Constitution of the United States, proposed as aforesaid, has been ratified by the Legislatures of the States of Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia, in all twenty-seven States; and whereas the whole number of States in the United States is thirty-six; and whereas the before specially named States whose Legislatures have ratified the said proposed amendment constitute three fourths of the whole number of States in the United States: Now, therefore, be it known that I, William H. Seward, Secretary of State, by virtue and in pursuance of the second section of the act of Congress, approved the 20th of April, 1818, entitled 'An act to provide for the publication of the laws of the United States, and for other purposes,' do hereby certify that the amendment aforesaid has become valid to all intents and purposes as a part of the Constitution of the United States."

It will be seen, Mr. Speaker, that seven of the above-named States that ratified said amendment had been with what was called the "southern confederacy." Surely it would not do for us now to say that the States so ratifying the amendment are not States within the Union. I might add that the Legislatures of California and New Jersey have since also ratified the amendment, while those of Kentucky and Delaware persistently refuse.

Mr. Speaker, we have heard on this floor, portrayed with zeal and eloquence, the barbarities committed by the rebels upon the Union soldiers, and the desecration of our dead, yea, even the murder of our venerable President. Now, sir, if it would restore to us again our much-esteemed President; to the bereaved parents, their sons; to the widow, her husband; to the orphan children, their fathers and protectors who fell in defense of this Republic; to the maimed their amputated limbs, and restore to health the shattered constitutions of our surviving soldiers, I would be willing—if the Constitution would allow it—to see the rebel States annihilated.

But that restoration cannot be had; our noble dead must sleep until the sound of Gabriel's trumpet. Though there are no marks to designate the resting-place of some, yet their noble deeds will be engraven upon the hearts of a grateful nation; while those who fell fighting to destroy our free institutions, if not totally forgotten, will only be remembered as rebels and traitors, and not as the honorable gentleman from New York [Mr. RAYMOND] said, in comparing them to our dead, "The dead of the contending hosts sleep beneath the soil of a common country under the common flag; their hostilities are hushed, and they are the dead of the nation forevermore." Sir, those who were trying to take the heart's blood of the nation deserve no such eulogy. Again, it has been asked, "How long may this nation survive with Senators elected by rebel Legislatures, or by treaties made by Senators chosen by rebel States?"

This, Mr. Speaker, is rather a patriotic appeal; but if the Senate and House of Representatives stand firm there will be no danger of such getting seats in either branch.

The sixth section of the third article of the Constitution of the United States provides that—

"Each House shall be the judge of the election, returns, and qualifications of its members."

We must not look at these questions as an advocate employed for his client, nor let our feelings betray our judgment, but view them as statesmen.

Mr. Speaker, we have been repeatedly told on this floor that we ought to be cautious about admitting Representatives from the States lately in rebellion, but no particular plan for their admission has been clearly defined.

It seems to me that if Congress would submit to the respective States a few important amendments to the Constitution of the United States, they would be ratified, and all this complication avoided. It would have been better if this course had been pursued immediately after the assembling of the present Congress.

The framers of the Constitution contemplated that the time might arrive when amendments would be necessary, and therefore provided a method for its accomplishment. It would be strange if, after a period of upward of seventy years in this progressive age, amendments would not be found necessary; though I think they ought to be as few as practicable.

Yet I do not agree with the honorable gentleman from New York, [Mr. RAYMOND,] who, in speaking of the Constitution, says he "looks upon all propositions for its amendment with hesitation and distrust." How any statesman can "hesitate and distrust" about the practicability of amending the Constitution to correspond with the times and circumstances I cannot imagine. Then, Mr. Speaker, I would propose: first, that the Representatives in

Congress shall be apportioned among the several States according to the number of qualified voters in each State. Secondly, that neither of the States of the Union shall ever assume or pay any part of the debt of the so-called confederate States of America, or of any State contracted in carrying on war against the United States; and, thirdly, that the Constitution be amended by striking out that clause which says:

"No tax or duty shall be laid on articles exported from any State."

According to the estimate of my colleague, [Mr. STEVENS,] a small tax on exportation of cotton alone would amount to $100,000,000 annually—a sum which would do much toward paying off our war debt. It is not likely it would be laid on any other product. These are all the amendments I deem necessary.

There can be no doubt that under the Constitution each State has a right to regulate the qualifications of its own electors, and Congress has no right to assume that authority. In the District of Columbia Congress has exclusive jurisdiction, and may there regulate the right of suffrage, which is of very little practical importance, as none but municipal officers are elective in the District. According to the constitution of Pennsylvania, none but "white freemen of the age of twenty-one years, having resided in the State one year," &c., are entitled to the right of suffrage, and before that can be changed there must be an alteration in the constitution of that State. As to the freedmen, the amendment already adopted gives Congress sufficient authority to legislate for their protection. I consider, Mr. Speaker, that the most important amendment needed is that of representation according to the vote; for while it must be conceded that each State has a right to regulate the right of suffrage, yet if the colored man is deprived of a vote he should not be counted in the representation; to simplify it, no other one ought to vote for him. If these three amendments were adopted, and especially the first, and the States lately in rebellion should send loyal men as representatives, they ought to be admitted; and if this arrangement could be made, I see no difficulty in regard to representation from those States. But Congress ought never to admit to a seat any man who has voluntarily borne arms against the United States, and of their qualification each House is the judge. President Johnson, in his annual message, says:

"It is for you, fellow-citizens of the House of Representatives to judge, each of you for yourselves, of the election, returns, and qualifications of your own members."

I have not time to review all the arguments from the Democratic side of this House, but if the gentlemen from New Jersey [Mr. ROGERS] and the late member from Indiana (Mr. Voorhees) express the views of their party, they would be willing to admit to seats on this floor rebels whose hands have been stained with the blood of our Union soldiers.

If we were to determine that the States lately in rebellion could only be admitted as new States, after presenting an acceptable constitution, and upon that basis receive them back, what would prevent them immediately after from changing their constitution in any way they saw fit, provided it was not inconsistent with that of the United States? So that the only safeguard is the amending of the Constitution of the United States, which will be a sufficient barrier against all innovations; and if those States are sincere as to their returned loyalty they will have no hesitation through their Legislatures to join in ratifying the material amendments, and especially that of representation.

It is true a bitter feeling has prevailed against some of the rebel States for their treasonable course, and especially South Carolina, and that is not to be wondered at when we take into consideration the unparalleled misery they have brought upon the country; but it is hoped they have repented in sackcloth and ashes, and, as some evidence of that, we find even South Carolina ratifying the amendment abolishing their favorite institution of slavery, while Kentucky and Delaware, professing to be loyal States, refuse. I trust, Mr. Speaker, that the two Houses of Congress will see the vast importance of having the requisite amendments to the Constitution speedily passed and submitted to the States for ratification. Then, after being ratified by the Legislatures of three fourths of the States, without fear of not being able to carry out the injunction of guarantying to every State in this Union a republican form of government, Representatives from those States lately in rebellion who can take the oath prescribed by existing laws can be admitted to seats in Congress; and it is due to such men as Maynard, Colonel Stokes, Colonel Hawkins, Arnell, Fowler, and others, who, in the nation's struggle, stood up for right and freedom, to be cared for. It was easy to be a Union man in the loyal States, surrounded by friends of the Republic, (and even there I am sorry to have to say that some were to be found sympathizing with treason,) but in the rebellious States it required the nerve of a Socrates to be loyal to his country where his personal liberty, life, property, and all that is dear to man were in peril. Even Alexander H. Stephens, who for a time so eloquently raised his voice against treason and clung to the horns of the altar of liberty, was, in the hour of trial and temptation, induced by the offer of a vice presidency in the so-called southern confederacy to let go that which he professed to love and revere, and turned his back against his country.

When war was raging it was necessary, for the preservation of the Union and to weaken the hands of the enemies of the Republic, to devastate the country in possession of the insurgents; but as the rebellion is now ended, it is the duty of the nation to foster and build it up; and by proper encouragement, with the

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blessings of free labor, evidenced by true loyalty, those States will exhibit in a few years one of the brightest spots in this Republic. My distinguished colleague, [Mr. WILLIAMS,] in speaking of the States lately in rebellion, says:

"Eleven of the columnar supports of our political edifice are now lying around us, like the grand columns of Tadmor and Palmyra, with shaft and capital and architrave alike shattered by the mighty convulsion that has laid them all in ruins."

And asks:

"Where is the hand that is to lift these columns to their place?"

Mr. Speaker, though the metaphor is beautiful, I do not agree with the honorable gentleman that eleven of the States of this Union are lying around "like the grand columns of Tadmor and Palmyra." The shock, it is true, was great, but they stood erect in the storm like the mighty oak of the forest, but came out somewhat scarred. But the leaders who caused this terrible conflict deserve condign punishment. The Government officials deserve great credit for causing the arrest, trial, and execution of Wirz, who was proved to be a monster, and for his barbarities to the Union prisoners deserved no better fate than that which was meted out to him; still he was but a subordinate, and it is not right that the chief officers should escape punishment. I agree with what was said by an eminent judge in my State, that "the greater the man, the greater the example."

Treason ought to be made odious, and there should be no procrastination in the trial of such offenders; the leading spirits should be the first brought to justice, and it is hoped that that part of the last annual message of President Johnson, in which he says—

"It is manifest that treason, most flagrant in character, has been committed. Persons who are charged with its commission should have fair and impartial trials in the highest civil tribunals of the country, in order that the Constitution and the laws may be fully vindicated; the truth clearly established and affirmed that treason is a crime, that traitors should be punished, and the offense made odious"—

may be speedily carried into effect, though I cannot well see why the leading traitors in the rebellion could not have been tried by a military commission as well as Wirz. I look upon John C. Breckinridge as one of the vilest traitors, and I trust an effort will be made to have him arrested, tried, and punished; and I might say that officers who held high military positions under the United States, and with the knowledge acquired as to the position of affairs, turned traitors and joined the rebel army, ought not to be permitted to stalk about the country.

Now, Mr. Speaker, though I differ somewhat with some of our leading members of the Republican party in this House as to the *status* of the States lately in rebellion, I agree with them that none but true, loyal Representatives ought to be admitted to seats from those States, and that we should have, as a safeguard, proper amendments to the Constitution of the United States.

It is hoped that the joint committee on reconstruction may mature some acceptable plan, which will meet the approbation of both branches of Congress and of the President, for the speedy adjustment of the perplexed questions that now agitate the country. I do not agree with the honorable gentleman from New York, [Mr. RAYMOND,] that we do not get much information from that committee. It is composed of gentlemen of strict integrity, and experienced statesmen, who have been laboring assiduously to procure all the information possible to lay before Congress, and, when a full report is made, will no doubt give us definite information as to the situation of affairs in the States lately in rebellion, and be of great importance to the whole country. I would here remark that the honorable chairman of the committee, (my colleague,) who has already passed the period of life usually assigned to man, for his devotion to and toil in behalf of his country deserves great credit; and I pray that his life may be spared until the great questions that now so much interest the nation may be adjusted so that all the States can be represented in the councils of the nation.

If, Mr. Speaker, this great Republic, now extending from the St. Lawrence to the Gulf of Mexico, and from the Atlantic to the Pacific ocean, and from which the dark stain of slavery has been eradicated, and the Gospel, education, and civil rights extended to all classes, with a Constitution which, according to the language of Chief Justice Marshall, in Cohens *vs.* Virginia, (6 Wheaton, 387,) is formed for ages to come, and is designed to approach immortality as near as human institutions can approach it; and if the citizens are true and loyal, and put their trust in Him who holds in His hands the destinies of nations, this Republic will endure as a shining light until the end of time, showing to the world that man is capable of self-government, and that this is truly "the land of the free and home of the brave."

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